

### **III. REMARKS**

#### **Status of the Claims**

Claims 1,2, 5, 6, 10, 16 and 17 are amended. Claims 1-19 are presented for reconsideration.

The claims of this application are amended for clarification, in particular to emphasize that the communication link and the identification link are separate and independent. The communication link, however, cannot be enabled until identification data is transferred. No new matter is presented. The amendments to the claims are not intended to be limiting, are not made for reasons related to patentability, and should not be interpreted to raise issues of estoppel.

#### **The Office Action**

Claims 1, 8-10, and 16-18 stand rejected under 35USC102(e) on the basis of the cited reference Weatherspoon, et al, U.S. Patent No. 7,174,564. This rejection is traversed on the following grounds:

The cited reference Weatherspoon fails to disclose each and every limitation of the claims of this application. It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221). In particular claims 1 and 16 state:

**"identification means, separate from said communication means, said identification means arranged to independently provide information identifying said portable communications device, from said identification means to said second device by means of a second communication link, to enable a communication connection over said first communication link between said communication means and said second device."**

The reference Weatherspoon, et al fails to disclose these features.

The claimed subject matter relates to means for establishing a communication connection between a portable communication device and a second device, for example, a point of service device. There are two independent communications set up, one that is used for transmitting transaction information and another that is used for transmitting identification information relating to the particular portable communication device. The identification means is a separate link and may be as simple as a bar code readable by the point of sale device. The identification means enables a separate communication connection for transmitting, for example, a transaction. The cited references either alone or in combination fail to show such a system.

In particular the reference Weatherspoon relates to a system for obtaining access to a wired local area network through an access point. The access point is a gate through which a communication link may be established by a wireless device over an air channel. It involves only one communication link over which a first authentication message is sent to the wireless device by which the wireless device can authenticate the access point. If the access point is authenticated then a second authentication message is sent from the wireless device to the access point over the same air channel communication link. Upon authentication of the wireless device an authentication server authorizes access to the local area network over the air channel communication link (see the abstract in Weatherspoon). Clearly there is no identification means capable of establishing a second communication link to transmit identification information and thereby enable a separate first communication link.

The reference Weatherspoon, therefore, fails to support the rejection based on anticipation. Since equivalent language to that indicated above is also contained in claim 17, these arguments apply equally to the rejection of claim 17.

Claims 2-7 are rejected under 35USC103(a) based on the combined teaching of the reference Weatherspoon and the cited reference Hunt, U.S. Patent No. 6,539,422. This rejection is traversed on the following grounds:

The combined teaching of Weatherspoon and Hunt does not render claims 2-7 obvious because it fails to teach or otherwise suggest each and every limitation of the claims. It is well settled that in order to establish a *prima facie* case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application. (MPEP Section 2142) ***In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.***

In particular the combined teaching fails to disclose or suggest the claimed features of independent claims 1, 16 and 17, as indicated above. These grounds apply equally to the rejected dependent claims, all of which, by dependency, have the limitations described in the independent claims. The cited reference Hunt fails to remedy the deficiencies of the primary reference Weatherspoon.

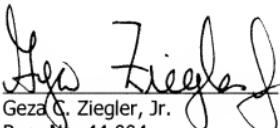
Claims 11-15, and 19 stand rejected under 35USC103(a) based on the combined teaching of Weatherspoon and Cameron et al, US Publication No. 2003/0055735. This rejection is traversed on the same grounds as stated above. The cited reference Cameron fails to remedy the deficiencies of the primary reference Weatherspoon.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the

Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for the one month extension of time (\$120) as well as any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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27 September 2007  
Date

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